

HOUSE BILL 292

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M3

2004 Regular Session
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By: **The Speaker and the Minority Leader (By Request - Administration)**
and Delegates Edwards, Amedori, Aumann, Bates, Cryor, Eckardt,
Elmore, Frank, Glassman, Haddaway, Hubbard, Jennings, Kelly, Krebs,
Malone, McComas, McConkey, McIntosh, O'Donnell, Sossi, Stocksdale,
Stull, Walkup, Weir, Weldon, and Wood

Introduced and read first time: January 27, 2004
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Water Pollution - The Chesapeake Bay Watershed Restoration Fund**

3 FOR the purpose of establishing the Chesapeake Bay Watershed Restoration Fund in
4 the Department of the Environment; authorizing the Maryland Water Quality
5 Financing Administration of the Department of the Environment to award
6 certain grants from the Fund; providing for the money in the Fund to be used for
7 grants and loans to upgrade the nutrient removal technology at certain
8 wastewater facilities to achieve enhanced nutrient removal; establishing an
9 environmental surcharge to be paid by users of wastewater facilities; providing
10 for the management of the Fund; establishing a certain advisory committee;
11 requiring certain reports by certain dates; requiring the Department of the
12 Environment to adopt certain regulations; authorizing the Department to adopt
13 certain regulations relating to a certain surcharge; providing for the payment of
14 certain bond revenue to the Fund; defining certain terms; and generally relating
15 to the establishment and management of the Chesapeake Bay Watershed
16 Restoration Fund.

17 BY repealing and reenacting, with amendments,
18 Article - Environment
19 Section 9-1601, 9-1604, 9-1611, 9-1616, and 9-1617
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 2003 Supplement)

22 BY adding to
23 Article - Environment
24 Section 9-1605.2
25 Annotated Code of Maryland
26 (1996 Replacement Volume and 2003 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Environment**

4 9-1601.

5 (a) Unless the context clearly requires otherwise, in this subtitle the following
6 words have the meanings indicated.

7 (b) "Administration" means the Maryland Water Quality Financing
8 Administration.

9 (C) "BIOLOGICAL NUTRIENT REMOVAL" MEANS A BIOLOGICAL NUTRIENT
10 REMOVAL TECHNOLOGY CAPABLE OF REDUCING THE NITROGEN IN WASTEWATER
11 EFFLUENT TO NOT MORE THAN 8 MILLIGRAMS PER LITER CALCULATED ON AN
12 ANNUALLY AVERAGED BASIS.

13 [(c)] (D) "Board" means the Board of Public Works.

14 [(d)] (E) "Bond" means a bond, note, or other evidence of obligation of the
15 Administration issued under this subtitle, including a bond or revenue anticipation
16 note, notes in the nature of commercial paper, and refunding bonds.

17 [(e)] (F) "Bond resolution" means the resolution or resolutions of the Director,
18 including the trust agreement, if any, authorizing the issuance of and providing for
19 the terms and conditions applicable to bonds.

20 [(f)] (G) "Borrower" means a local government or a person as defined in §
21 1-101(h) of this Article who has received a loan.

22 [(g)] (H) " Director" means the Director of the Administration.

23 [(h)] (I) "Drinking Water Loan Fund" means the Maryland Drinking Water
24 Revolving Loan Fund.

25 (J) "ELIGIBLE COSTS" MEANS THOSE COSTS IDENTIFIED IN § 9-1605.2(E) OF
26 THIS SUBTITLE.

27 (K) "ENHANCED NUTRIENT REMOVAL" MEANS AN ENHANCED NUTRIENT
28 REMOVAL TECHNOLOGY CAPABLE OF REDUCING THE NITROGEN IN WASTEWATER
29 EFFLUENT TO NOT MORE THAN 4 MILLIGRAMS PER LITER CALCULATED ON AN
30 ANNUALLY AVERAGED BASIS.

31 (L) "EQUIVALENT DWELLING UNIT" MEANS A MEASURE OF WASTEWATER
32 EFFLUENT WHERE ONE UNIT IS EQUIVALENT TO:

33 (1) THE TOTAL AVERAGE DAILY FLOW OF 250 GALLONS OF
34 WASTEWATER EFFLUENT FOR THE CALENDAR QUARTER OR BILLING CYCLE OF THE

1 WASTEWATER FACILITY, DETERMINED BY THE LOCAL GOVERNMENT OR BILLING
2 AUTHORITY FOR A WASTEWATER FACILITY; OR

3 (2) THE TOTAL AVERAGE DAILY FLOW OF WASTEWATER EFFLUENT
4 THAT THE LOCAL GOVERNMENT OR BILLING AUTHORITY FOR A WASTEWATER
5 FACILITY DETERMINES TO BE EQUIVALENT TO THE AVERAGE DAILY FLOW OF
6 WASTEWATER EFFLUENT DISCHARGED BY A RESIDENTIAL DWELLING UNIT THAT
7 MAY NOT EXCEED 250 GALLONS.

8 [(i)] (M) "Facility" means a wastewater facility or all or a portion of a water
9 supply system as defined in § 9-201(u) of this Article.

10 [(j)] (N) "Federal Safe Drinking Water Act" means Title XIV of the Public
11 Health Service Act, P.L. 93-523, as amended, 42 U.S.C. § 300f, et seq., and the rules
12 and regulations promulgated thereunder.

13 [(k)] (O) "Federal Water Pollution Control Act" means the Water Pollution
14 Control Act of 1972, P.L. 92-500, as amended, 33 U.S.C. § 1251, et seq., and rules and
15 regulations promulgated thereunder.

16 [(l)] (P) "Fund" means a fund established by this subtitle, including the Water
17 Quality Fund, the Drinking Water Loan Fund, AND THE WATERSHED RESTORATION
18 FUND.

19 (Q) "GRANT" MEANS A GRANT FROM THE ADMINISTRATION TO A GRANTEE.

20 (R) "GRANT AGREEMENT" MEANS A WRITTEN AGREEMENT BETWEEN THE
21 ADMINISTRATION AND A GRANTEE WITH RESPECT TO A GRANT.

22 (S) "GRANTEE" MEANS THE GRANT RECIPIENT.

23 [(m)] (T) "Lender" has the meaning stated in § 9-1606.1 of this subtitle.

24 [(n)] (U) "Linked deposit" has the meaning stated in § 9-1606.1 of this
25 subtitle.

26 [(o)] (V) " Linked deposit loan" has the meaning stated in § 9-1606.1 of this
27 subtitle.

28 [(p)] (W) "Linked deposit program" has the meaning stated in § 9-1606.1 of
29 this subtitle.

30 [(q)] (X) "Local government" means a county, municipal corporation, sanitary
31 district, or other State or local public entity which has authority to own or operate a
32 facility, and includes any combination of 2 or more of the foregoing, acting jointly to
33 construct or operate a facility.

34 [(r)] (Y) "Loan" means a loan from the Administration to a borrower for the
35 purpose of financing all or a portion of the cost of a wastewater facility, if the loan is

1 from the Water Quality Fund, or water supply system, if the loan is from the
2 Drinking Water Loan Fund.

3 [(s)] (Z) "Loan agreement" means a written agreement between the
4 Administration and a borrower with respect to a loan.

5 [(t)] (AA) "Loan obligation" means a bond, note, or other evidence of obligation,
6 including a mortgage, deed of trust, lien, or other security instrument, issued or
7 executed by a borrower to evidence its indebtedness under a loan agreement with
8 respect to a loan.

9 (BB) "RESIDENTIAL DWELLING UNIT" MEANS A ROOM OR GROUP OF ROOMS
10 OCCUPIED AS LIVING QUARTERS BY AN INDIVIDUAL, A SINGLE FAMILY, OR OTHER
11 DISCRETE GROUP OF PERSONS WITH FACILITIES THAT ARE USED OR INTENDED TO
12 BE USED FOR LIVING, SLEEPING, COOKING, SANITATION, AND EATING, INCLUDING
13 AN APARTMENT UNIT, CONDOMINIUM UNIT, COOPERATIVE UNIT, TOWN HOUSE
14 UNIT, MOBILE HOME, OR HOUSE.

15 (CC) "USER" MEANS ANY PERSON DISCHARGING TO A WASTEWATER FACILITY
16 THAT HAS A STATE OR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM
17 DISCHARGE PERMIT.

18 [(u)] (DD) "Wastewater Facility" means any equipment, plant, treatment works,
19 structure, machinery, apparatus, interest in land, or any combination of these, which
20 is acquired, used, constructed, or operated for the storage, collection, treatment,
21 neutralization, stabilization, reduction, recycling, reclamation, separation, or disposal
22 of wastewater, or for the final disposal of residues resulting from the treatment of
23 wastewater, including: treatment or disposal plants; outfall sewers, interceptor
24 sewers, and collector sewers; pumping and ventilating stations, facilities, and works;
25 programs and projects for controlling nonpoint sources of water pollution and for
26 estuarine conservation and management; and other real or personal property and
27 appurtenances incident to their development, use, or operation.

28 [(v)] (EE) "Water Quality Fund" means the Maryland Water Quality Revolving
29 Loan Fund.

30 [(w)] (FF) "Water supply system" has the meaning stated in § 9-201(u) of this
31 title.

32 (GG) "WATERSHED RESTORATION FUND" MEANS THE CHESAPEAKE BAY
33 WATERSHED RESTORATION FUND.

34 9-1604.

35 In addition to the powers set forth elsewhere in this subtitle, but subject to such
36 rules or program directives as the Secretary may from time to time prescribe, the
37 Administration may:

38 (1) Adopt and alter an official seal;

- 1 (2) Sue and be sued, plead, and be impleaded;
- 2 (3) Adopt bylaws, rules, and regulations to carry out the provisions of
3 this subtitle;
- 4 (4) Maintain an office at such place as the Secretary may designate;
- 5 (5) Employ consultants, accountants, attorneys, financial experts, and
6 other personnel and agents as may be necessary in its judgment, and fix their
7 compensation;
- 8 (6) Establish regulations, criteria, or guidelines with respect to loans,
9 loan agreements, loan obligations, GRANTS, GRANT AGREEMENTS, AND GRANT
10 OBLIGATIONS;
- 11 (7) Receive and accept from any source, private or public, contributions,
12 grants, or gifts of money or property;
- 13 (8) Enter into contracts of any kind, and execute all instruments
14 necessary or convenient with respect to carrying out the powers in this subtitle to
15 accomplish the purposes of the Administration;
- 16 (9) Make loans, enter into loan agreements, and accept and enforce loan
17 obligations;
- 18 (10) AWARD GRANTS, ENTER INTO GRANT AGREEMENTS, AND ACCEPT
19 AND ENFORCE GRANT OBLIGATIONS;
- 20 [(10)] (11) Subject to the prior approval of the Board and the Secretary,
21 issue bonds under this subtitle; and
- 22 [(11)] (12) Do all acts and things necessary or convenient to carry out the
23 powers granted by this subtitle.
- 24 9-1605.2.
- 25 (A) (1) THERE IS A CHESAPEAKE BAY WATERSHED RESTORATION FUND.
- 26 (2) THE WATERSHED RESTORATION FUND SHALL BE MAINTAINED AND
27 ADMINISTERED BY THE ADMINISTRATION IN ACCORDANCE WITH THE PROVISIONS
28 OF THIS SUBTITLE AND ANY RULES OR PROGRAM DIRECTIVES AS THE SECRETARY OR
29 THE BOARD MAY PRESCRIBE.
- 30 (3) (I) FOR THE PURPOSES OF THIS SUBTITLE, THERE IS
31 ESTABLISHED AN ENVIRONMENTAL SURCHARGE TO BE PAID BY ANY USER OF A
32 WASTEWATER FACILITY IN THE STATE.
- 33 (II) FOR EACH UNIT THAT IS A RESIDENTIAL DWELLING UNIT, THE
34 ENVIRONMENTAL SURCHARGE SHALL BE \$2.50 PER MONTH.

1 (III) FOR A UNIT THAT IS NOT A RESIDENTIAL DWELLING UNIT, THE
2 ENVIRONMENTAL SURCHARGE SHALL BE:

3 1. FOR EACH EQUIVALENT DWELLING UNIT UP TO 2,000
4 EQUIVALENT DWELLING UNITS, \$2.50 PER MONTH FOR EACH EQUIVALENT
5 DWELLING UNIT; AND

6 2. FOR EACH EQUIVALENT DWELLING UNIT OVER 2,000
7 EQUIVALENT DWELLING UNITS AND UP TO 8,000 EQUIVALENT DWELLING UNITS,
8 \$1.25 PER MONTH FOR EACH EQUIVALENT DWELLING UNIT.

9 (IV) FOR A UNIT WITH MORE THAN 8,000 EQUIVALENT DWELLING
10 UNITS, THERE WILL BE NO SURCHARGE OTHER THAN THE SURCHARGE IN
11 SUBPARAGRAPH (III) OF THIS PARAGRAPH.

12 (V) 1. A LOCAL GOVERNMENT MAY ESTABLISH A PROGRAM TO
13 EXEMPT FROM THE REQUIREMENTS OF THIS SECTION A RESIDENTIAL DWELLING
14 UNIT ABLE TO DEMONSTRATE SUBSTANTIAL FINANCIAL HARDSHIP AS A RESULT OF
15 THE SURCHARGE.

16 2. A PROGRAM ESTABLISHED UNDER SUBSUBPARAGRAPH 1
17 OF THIS SUBPARAGRAPH SHALL BE SUBJECT TO THE APPROVAL OF THE
18 ADMINISTRATION.

19 (VI) 1. THE SURCHARGE MAY BE ADJUSTED FOR FISCAL YEAR
20 2008 AND SUBSEQUENT YEARS IN ACCORDANCE WITH REGULATIONS ADOPTED
21 UNDER SUBSECTION (G) OF THIS SECTION.

22 2. ANY ADJUSTMENT TO THE AMOUNT OF THE SURCHARGE
23 SHALL BE MADE SUBJECT TO AND IN COMPLIANCE WITH THE REQUIREMENTS OF
24 ANY APPLICABLE BOND RESOLUTION.

25 (VII) 1. THE SURCHARGE SHALL BE COLLECTED BY THE BILLING
26 AUTHORITY FOR THE WASTEWATER FACILITY ON BEHALF OF THE STATE.

27 2. THE BILLING AUTHORITY FOR THE WASTEWATER
28 FACILITY SHALL ADD THE FULL AMOUNT OF THE SURCHARGE TO EACH CUSTOMER'S
29 BILL AND SHALL ESTABLISH A SEGREGATED ACCOUNT FOR DEPOSIT OF FUNDS
30 COLLECTED UNDER THIS SUBTITLE.

31 3. A. THE ADMINISTRATION SHALL DETERMINE THE
32 METHOD OF COLLECTION OF THE SURCHARGE FROM THE WASTEWATER FACILITY.

33 B. THE COLLECTIONS SHALL ACCRUE TO THE FUND.

34 (VIII) FOR A WASTEWATER FACILITY WITHOUT A BILLING
35 AUTHORITY, THE ADMINISTRATION MAY COLLECT THE SURCHARGE FROM THE
36 FACILITY OWNER.

1 (B) (1) THE WATERSHED RESTORATION FUND IS A SPECIAL, CONTINUING,
2 NONLAPSING FUND WHICH IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND
3 PROCUREMENT ARTICLE.

4 (2) THE WATERSHED RESTORATION FUND SHALL BE AVAILABLE FOR
5 THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE IN ACCORDANCE WITH THE
6 PROVISIONS OF THIS SUBTITLE, FOR ELIGIBLE COSTS OF PROJECTS RELATING TO
7 PLANNING, DESIGN, CONSTRUCTION, AND UPGRADES OF WASTEWATER FACILITIES
8 TO ACHIEVE ENHANCED NUTRIENT REMOVAL AS REQUIRED BY THE CONDITIONS OF
9 A GRANT AGREEMENT AND A DISCHARGE PERMIT.

10 (3) SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND
11 RESOLUTION REGARDING THE HOLDING OR APPLICATION OF AMOUNTS IN THE
12 WATERSHED RESTORATION FUND, THE TREASURER SHALL SEPARATELY HOLD, AND
13 THE COMPTROLLER SHALL ACCOUNT FOR, THE WATERSHED RESTORATION FUND.

14 (4) SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND
15 RESOLUTION GOVERNING THE INVESTMENT OF AMOUNTS IN THE WATERSHED
16 RESTORATION FUND, THE WATERSHED RESTORATION FUND SHALL BE INVESTED
17 AND REINVESTED IN THE SAME MANNER AS OTHER STATE FUNDS.

18 (5) ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT
19 OF THE WATERSHED RESTORATION FUND.

20 (6) THE WATERSHED RESTORATION FUND SHALL BE SUBJECT TO AUDIT
21 ONCE EVERY 2 YEARS BY THE OFFICE OF LEGISLATIVE AUDITS AS PROVIDED FOR IN
22 § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

23 (7) THE ADMINISTRATION SHALL OPERATE THE WATERSHED
24 RESTORATION FUND IN ACCORDANCE WITH §§ 9-1616 THROUGH 9-1621 OF THIS
25 SUBTITLE.

26 (8) THE DEPARTMENT SHALL DETERMINE THE PRIORITY RANKING OF
27 PROJECTS.

28 (C) THERE SHALL BE DEPOSITED IN THE WATERSHED RESTORATION FUND:

29 (1) FUNDS RECEIVED FROM THE ENVIRONMENTAL SURCHARGE;

30 (2) NET PROCEEDS OF BONDS ISSUED BY THE ADMINISTRATION;

31 (3) INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF
32 MONEY IN THE WATERSHED RESTORATION FUND; AND

33 (4) ANY ADDITIONAL MONEY MADE AVAILABLE FROM ANY SOURCES,
34 PUBLIC OR PRIVATE, THE PURPOSES FOR WHICH THE WATERSHED RESTORATION
35 FUND HAS BEEN ESTABLISHED.

36 (D) THE ADMINISTRATION MAY ESTABLISH ACCOUNTS AND SUBACCOUNTS
37 WITHIN THE WATERSHED RESTORATION FUND TO:

- 1 (1) EFFECTUATE THE PURPOSES OF THIS SUBTITLE;
- 2 (2) COMPLY WITH THE PROVISIONS OF ANY BOND RESOLUTION;
- 3 (3) MEET THE REQUIREMENTS OF ANY FEDERAL OR STATE LAW, OR OF
4 ANY GRANT OR AWARD TO THE WATERSHED RESTORATION FUND; AND
- 5 (4) MEET ANY RULES OR PROGRAM DIRECTIVES ESTABLISHED BY THE
6 SECRETARY OR THE BOARD.

7 (E) (1) IN THIS SUBSECTION "ELIGIBLE COSTS" MEANS THE ADDITIONAL
8 COSTS THAT WOULD BE ATTRIBUTABLE TO UPGRADING A WASTEWATER FACILITY
9 FROM BIOLOGICAL NUTRIENT REMOVAL TO ENHANCED NUTRIENT REMOVAL, AS
10 DETERMINED BY THE DEPARTMENT.

11 (2) FUNDS IN THE WATERSHED RESTORATION FUND MAY BE USED
12 ONLY:

13 (I) TO AWARD GRANTS FOR UP TO 100 PERCENT OF ELIGIBLE
14 COSTS OF PROJECTS RELATING TO PLANNING, DESIGN, CONSTRUCTION, AND
15 UPGRADE OF A WASTEWATER FACILITY WITH A DESIGN CAPACITY OF 500,000
16 GALLONS OR MORE PER DAY TO ACHIEVE ENHANCED NUTRIENT REMOVAL AS
17 REQUIRED BY THE CONDITIONS OF A GRANT AGREEMENT AND A DISCHARGE PERMIT
18 IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION.

19 (II) FOR A PORTION OF THE OPERATION AND MAINTENANCE COSTS
20 RELATED TO THE ENHANCED NUTRIENT REMOVAL TECHNOLOGY, WHICH MAY NOT
21 EXCEED 10 PERCENT OF THE TOTAL ENVIRONMENTAL SURCHARGE COLLECTED BY
22 THE ADMINISTRATION ANNUALLY;

23 (III) AS A SOURCE OF REVENUE OR SECURITY FOR THE PAYMENT OF
24 PRINCIPAL AND INTEREST ON BONDS ISSUED BY THE ADMINISTRATION IF THE
25 PROCEEDS OF THE SALE OF THE BONDS WILL BE DEPOSITED IN THE WATERSHED
26 RESTORATION FUND;

27 (IV) TO EARN INTEREST ON WATERSHED RESTORATION FUND
28 ACCOUNTS;

29 (V) OR THE REASONABLE COSTS OF ADMINISTERING THE
30 WATERSHED RESTORATION FUND, WHICH MAY NOT EXCEED 1.5 PERCENT OF THE
31 TOTAL ENVIRONMENTAL SURCHARGE COLLECTED BY THE ADMINISTRATION
32 ANNUALLY;

33 (VI) FOR THE REASONABLE ADMINISTRATIVE COSTS INCURRED BY
34 A BILLING AUTHORITY FOR A WASTEWATER FACILITY COLLECTING THE
35 ENVIRONMENTAL SURCHARGE, THE ADMINISTRATIVE COSTS MAY BE RETAINED BY
36 THE BILLING AUTHORITY IN AN AMOUNT NOT TO EXCEED 3 PERCENT OF THE TOTAL
37 ENVIRONMENTAL SURCHARGE COLLECTED BY THE BILLING AUTHORITY;

1 (VII) FOR FUTURE UPGRADES OF WASTEWATER FACILITIES WITH A
2 DESIGN CAPACITY OF LESS THAN 500,000 GALLONS PER DAY. IN ACCORDANCE WITH
3 PARAGRAPH (4) OF THIS SUBSECTION; AND

4 (VIII) FOR COSTS ASSOCIATED WITH THE ISSUANCE OF BONDS.

5 (3) THE GRANT AGREEMENT AND DISCHARGE PERMIT SHALL REQUIRE
6 AN OWNER OF A WASTEWATER FACILITY TO OPERATE THE ENHANCED NUTRIENT
7 REMOVAL FACILITY IN A MANNER THAT OPTIMIZES THE NUTRIENT REMOVAL
8 CAPABILITY OF THE FACILITY.

9 (4) (I) AN UPGRADE OF A WASTEWATER FACILITY SHALL BE
10 COMMENCED ONLY ON COMPLETION OF ENHANCED NUTRIENT REMOVAL
11 UPGRADES AT WASTEWATER FACILITIES WITH A DESIGN CAPACITY OF 500,000
12 GALLONS OR MORE PER DAY.

13 (II) THE ELIGIBILITY OF A PROJECT SHALL BE DETERMINED BY
14 THE DEPARTMENT BASED ON CRITERIA ESTABLISHED IN REGULATIONS ADOPTED BY
15 THE DEPARTMENT, IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION.

16 (F) (1) THERE IS A WATERSHED RESTORATION FUND ADVISORY
17 COMMITTEE.

18 (2) THE COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS:

19 (I) THE SECRETARIES OF THE ENVIRONMENT, NATURAL
20 RESOURCES, AND BUDGET AND MANAGEMENT, OR THEIR DESIGNEES;

21 (II) ONE MEMBER OF THE SENATE, APPOINTED BY THE PRESIDENT
22 OF THE SENATE;

23 (III) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY
24 THE SPEAKER OF THE HOUSE OF DELEGATES;

25 (IV) TWO PERSONS REPRESENTING PUBLICLY OWNED
26 WASTEWATER FACILITIES, APPOINTED BY THE GOVERNOR;

27 (V) TWO PERSONS REPRESENTING ENVIRONMENTAL
28 ORGANIZATIONS, APPOINTED BY THE GOVERNOR;

29 (VI) ONE PERSON EACH FROM THE MARYLAND ASSOCIATION OF
30 COUNTIES AND THE MARYLAND MUNICIPAL LEAGUE, APPOINTED BY THE
31 GOVERNOR;

32 (VII) TWO PERSONS REPRESENTING THE BUSINESS COMMUNITY,
33 APPOINTED BY THE GOVERNOR; AND

34 (VIII) TWO PERSONS REPRESENTING LOCAL HEALTH DEPARTMENTS
35 WITH EXPERTISE IN ON-SITE SEWAGE DISPOSAL SYSTEMS, APPOINTED BY THE
36 GOVERNOR.

1 (3) THE GOVERNOR SHALL APPOINT THE CHAIRMAN OF THE
2 COMMITTEE FROM THE DESIGNATED MEMBERS OF THE COMMITTEE.

3 (4) THE COMMITTEE MAY CONSULT WITH ANY STAKEHOLDER GROUP AS
4 IT DEEMS NECESSARY.

5 (5) (I) THE TERM OF A MEMBER IS 4 YEARS.

6 (II) A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS
7 APPOINTED.

8 (6) THE COMMITTEE SHALL:

9 (I) PERFORM AN ANALYSIS OF THE COST OF NUTRIENT REMOVAL
10 FROM WASTEWATER FACILITIES;

11 (II) IDENTIFY ADDITIONAL SOURCES FOR FUNDING THE
12 WATERSHED RESTORATION FUND, INCLUDING A MEANS OF ESTABLISHING A
13 SIMILAR IMPACT FEE FOR ON-SITE SEWAGE DISPOSAL SYSTEM OWNERS;

14 (III) MAKE RECOMMENDATIONS TO IMPROVE THE EFFECTIVENESS
15 OF THE WATERSHED RESTORATION FUND IN REDUCING NUTRIENT LOADINGS TO
16 THE WATERS OF THE STATE;

17 (IV) MAKE RECOMMENDATIONS REGARDING THE APPROPRIATE
18 ENVIRONMENTAL SURCHARGE TO BE ASSESSED IN FISCAL YEAR 2008 AND
19 SUBSEQUENT YEARS AS NECESSARY TO MEET THE FINANCING NEEDS OF THE
20 WATERSHED RESTORATION FUND;

21 (V) ADVISE THE SECRETARY CONCERNING THE ADOPTION OF
22 REGULATIONS AS DESCRIBED IN SUBSECTION (G) OF THIS SECTION; AND

23 (VI) BEGINNING JANUARY 1, 2006, AND EVERY 2 YEARS
24 THEREAFTER, REPORT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE
25 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON ITS FINDINGS AND
26 RECOMMENDATIONS.

27 (7) MEMBERS OF THE COMMITTEE:

28 (I) MAY NOT RECEIVE COMPENSATION; BUT

29 (II) ARE ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER
30 THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

31 (8) THE DEPARTMENT OF THE ENVIRONMENT, DEPARTMENT OF
32 NATURAL RESOURCES, AND DEPARTMENT OF BUDGET AND MANAGEMENT SHALL
33 PROVIDE STAFF SUPPORT FOR THE COMMITTEE.

34 (G) (1) THE DEPARTMENT SHALL ADOPT ANY REGULATIONS THAT ARE
35 NECESSARY OR APPROPRIATE TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

1 (2) THE DEPARTMENT, IN CONSULTATION WITH THE WATERSHED FUND
2 ADVISORY COMMITTEE, MAY ADOPT REGULATIONS THAT ESTABLISH THE AMOUNT,
3 METHOD OF CALCULATION, AND TYPES OF ENVIRONMENTAL SURCHARGES TO BE
4 DEPOSITED IN THE WATERSHED RESTORATION FUND FOR FISCAL YEAR 2008 AND
5 SUBSEQUENT YEARS.

6 9-1611.

7 (a) Bonds may be secured by a trust agreement by and between the
8 Administration and a corporate trustee, which may be any trust company or bank
9 having trust powers, within or without the State. Such trust agreement may pledge or
10 assign all or any part of the revenues or corpus of the Water Quality [Fund or] FUND,
11 Drinking Water Loan Fund, OR WATERSHED RESTORATION FUND, or any account
12 [therein] WITHIN THESE FUNDS, and may pledge or assign or grant a lien on or
13 security interest in any loan agreement or loan obligation. Any such trust agreement
14 or resolution authorizing the issuance of bonds may contain such provisions for the
15 protection and enforcement of the rights and remedies of the bondholders as may be
16 deemed reasonable and proper, including covenants setting forth the duties of the
17 Administration in relation to the making, administration and enforcement of loans
18 and the custody, safeguarding and application of moneys. Such trust agreement may
19 set forth the rights and remedies of the bondholders and of the trustee and may
20 restrict the individual right of action by bondholders. In addition to the foregoing,
21 such trust agreement may contain such other provisions as the Director may deem
22 reasonable and proper for the security of the bondholders, including, without
23 limitation, covenants pertaining to the issuance of additional parity bonds upon
24 conditions stated therein consistent with the requirements of this subtitle.

25 (b) The proceeds of the sale of bonds shall be disbursed in such manner and
26 under such restrictions, if any, as may be provided in such trust agreement.

27 (c) (1) The revenues and moneys designated as security for bonds shall be
28 set aside at such regular intervals as may be provided in the bond resolution in a
29 special account in the Water Quality Fund, if the net sale proceeds will be deposited in
30 the Water Quality Fund, [or] the Drinking Water Loan Fund, if the net sale proceeds
31 will be deposited in the Drinking Water Loan Fund, OR THE WATERSHED
32 RESTORATION FUND, IF THE NET SALE PROCEEDS WILL BE DEPOSITED IN THE
33 WATERSHED RESTORATION FUND which is pledged to, and charged with, the
34 payment of:

35 (i) The interest upon such bonds as such interest falls due;

36 (ii) The principal of such bonds as it falls due;

37 (iii) The necessary charges of the trustee, bond registrar, and paying
38 agents; and

39 (iv) The redemption price or purchase price of bonds retired by call
40 or purchase as provided in the bond resolution or trust agreement.

1 (2) Any amounts set aside in such special account which are not needed
2 to provide for the payment of the items included under paragraph (1) of this
3 subsection may be used for any other lawful purpose, to the extent provided in the
4 bond resolution. Such pledge shall be valid and binding from the time when the
5 pledge is made. Such revenues or other moneys so pledged and thereafter received by
6 the Administration shall immediately be subject to the lien of such pledge without
7 any physical delivery thereof or further act, and the lien of any such pledge shall be
8 valid and binding as against all parties having any claims of any kind in tort,
9 contract, or otherwise against the Administration or the Water Quality Fund, [or] the
10 Drinking Water Loan Fund, OR THE WATERSHED RESTORATION FUND, irrespective of
11 whether such parties have notice thereof. Neither the bond resolution nor any trust
12 agreement by which a pledge is created need be filed or recorded except in the records
13 of the Administration, any public general or public local law to the contrary
14 notwithstanding.

15 (d) Any net earnings of the Administration, beyond that necessary for the
16 retirement of bonds or to implement the public purposes or programs of the
17 Administration, shall not inure to the benefit of any person, other than the State of
18 Maryland for use to accomplish the purposes of this subtitle.

19 9-1616.

20 The Administration shall not be required to give any bond as security for costs,
21 supersedeas, or any other security in any suit or action brought by or against it, or in
22 proceedings to which it may be a party, in any court of this State, and the
23 Administration shall have the remedies of appeal of whatever kind to all courts
24 without bonds, supersedeas, or security of any kind. No builder's, materialman's,
25 contractor's, laborer's, or mechanic's liens of any kind or character shall ever attach to
26 or become a lien upon the Water Quality [Fund or] FUND, the Drinking Water Loan
27 Fund, OR THE WATERSHED RESTORATION FUND or any property, real or personal,
28 belonging to the Administration and no assignment of wages shall be binding upon or
29 recognized by the Administration.

30 9-1617.

31 The Administration shall make provision for a system of financial accounting,
32 controls, audits, and reports in accordance with generally accepted principles of
33 governmental accounting. All accounting systems and records, auditing procedures
34 and standards, and financial reporting for the Water Quality Fund, THE DRINKING
35 WATER LOAN FUND, AND THE WATERSHED RESTORATION FUND shall conform to the
36 requirements of Title VI of the Federal Water Pollution Control Act, THE FEDERAL
37 SAFE DRINKING WATER ACT, AND THE CHESAPEAKE BAY WATERSHED RESTORATION
38 FUND ACT, AS APPLICABLE and, to the extent not inconsistent therewith, generally
39 accepted principles of governmental accounting. As soon as practical after the closing
40 of the fiscal year, an audit shall be made of the financial books, records, and accounts
41 of the Administration. The audit shall be made by independent certified public
42 accountants, selected by the Administration, and licensed to practice in the State as
43 auditors. The auditors may not have a personal interest either directly or indirectly in
44 the fiscal affairs of the Administration. They shall be experienced and qualified in the

1 accounting and auditing of public bodies. The report of audit shall be prepared in
2 accordance with generally accepted auditing principles and point out any
3 irregularities found to exist. The auditors shall report to the Secretary the results of
4 their examination, including their unqualified opinion on the presentation of the
5 financial positions of the Water Quality [Fund and] FUND, the Drinking Water Loan
6 Fund, AND THE WATERSHED RESTORATION FUND, and the results of the
7 Administration's financial operations. If they are unable to express an unqualified
8 opinion they shall state and explain in detail the reasons for their qualifications,
9 disclaimer, or opinion including recommendations necessary to make possible future
10 unqualified opinions.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 July 1, 2004.